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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,216	10/23/2006	Martin Mastenbroek	2005-1038	9725

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

EXAMINER

QUINN, COLLEEN M

ART UNIT	PAPER NUMBER
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3634

NOTIFICATION DATE	DELIVERY MODE
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02/10/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DocketingDept@young-thompson.com

Office Action Summary

Application No.

10/584,216

Applicant(s)

MASTENBROEK, MARTIN

Examiner

COLLEEN M. QUINN

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-15 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8 and 10-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 7th, 2011 has been entered.

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119, to foreign patent applications NL 1025127 and NL 1025821, *however it still does not appear to be proper.*

The applicant has now submitted translated copies of the foreign priority documents to which he was claiming foreign priority. However, neither of the foreign documents/ NL patents submitted actually discloses the invention of US application 10/584216. It appears that once again the foreign priority documents only disclose the invention of US application 10/584215, and not the invention of this instant application US 10/584216.

The foreign priority claim for this application to foreign patent applications NL 1025127 and NL 1025821 is still not proper or accepted.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 7, 8 and 10-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Zink (DE20109056). Zink discloses a safety device (figures 1 & 2) for a fall restraint, comprising: anchoring means (5) to which the fall restraint can be coupled directly or indirectly, and fastening means (9) that make a firm and durable connection to a wall (figure 1), the fastening means comprise a flexible fastening flap (9) from which a fastening net (8) extends (figure 2), and the anchoring means are connected via the fastening net to the flexible fastening flap (figure 2); wherein the fastening net is polygonal shaped and is attached to the fastening flap at more than one side of said polygonal shape (figure 2); wherein the fastening net is integrated in the fastening flap (figure 2); wherein the fastening net is strengthened with longitudinal threads and transverse threads (figure 2); wherein the fastening net, and therefore the roof covering material, is manufactured at least partially from a plastic material (description, page 1, paragraph 1, sentence 1); wherein the fastening flap forms part of an optionally unrolled roll of roof covering material (figures 1 & 2); the fastening net is fixed to an inlay in the roof covering material (figure 1) and is incorporated therewith in the roof covering material (figures 1 & 2); and wherein the anchoring means comprise an eyelet/ring/loop (5);

Response to Arguments

Applicant's arguments filed January 7th, 2011 have been fully considered but they are not persuasive.

A response to the foreign priority remarks can be found at the beginning of this Office action.

The applicant argues that by putting the subject matter of claim 6, into claim that the remaining claims 1-5, 7, 8 and 10-15 are now allowable. This is not persuasive since the subject matter of claim 6, be it in now amended claim 1, or as previously dependent claim 6, is still anticipated by the prior art of Zink, as advanced above. Zink discloses the fastening flap as part of an optionally unrolled roll of roof covering material (figures 1 & 2); the fastening net being fixed to an inlay in the roof covering material (figure 1) and is incorporated therewith in the roof covering material (figures 1 & 2). See also Zink disclosure, page 4, description of **Figure 1**, which explains that the layers are all part of an unrollable roof covering. The applicant is reminded that the claims recite "A safety device.....comprising..." allowing for more than just claimed to be present and also that the applicant is not actually claiming anything about the roof covering being leak proof or watertight as he is arguing.

Therefore the arguments are not persuasive.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **COLLEEN M. QUINN** whose telephone number is **(571)272-6289**. The examiner can normally be reached on 8:30AM-5:00PM Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Colleen M Quinn/
Examiner, Art Unit 3634

/Alvin C. Chin-Shue/

Primary Examiner, Art Unit 3634